

LC-4169(tk)DJM
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JULIA COSTA,

Docket 08 CV 00100

Plaintiff,

ANSWER TO COMPLAINT

-against-

JENNIFER ROBBINS AND JASON ROBBINS,

Defendants.
-----X

S I R S:

Defendants, **JENNIFER ROBBINS AND JASON ROBBINS**, by their attorneys, DeCICCO, GIBBONS & McNAMARA, P.C., answering the complaint of the plaintiff herein, respectfully allege:

AS AND FOR AN ANSWER TO THE BASIS OF JURISDICTION

FIRST: Deny knowledge or information sufficient to form an opinion or belief as to those allegations contained in paragraph designated "1" of the complaint.

AS AND FOR AN ANSWER TO IDENTITY OF PARTIES

SECOND: Deny knowledge or information sufficient to form an opinion or belief as to those allegations contained in paragraph designated "2" of the complaint.

AS AND FOR AN ANSWER TO FACTS

THIRD: Deny each and every allegation contained in paragraph designated "4" of the complaint except admit defendants ROBBINS were the owners of residential premises located at 722 Bedford Road, Bedford Corners, New York 10549.

FOURTH: Deny each and every allegation contained in paragraphs designated "5" through "8" inclusive, of the complaint and beg leave to refer all questions of law and fact to the trial of the action.

FIFTH: Deny each and every allegation contained in paragraphs designated "9" through "17" inclusive, of the complaint.

AS AND FOR AN ANSWER TO A SECOND CAUSE OF ACTION

SIXTH: In response to paragraph "18", defendants repeat, reiterate and reallege each and every denial of those allegations contained in paragraphs designated "1" through "17" inclusive, of the complaint.

SEVENTH: Deny each and every allegation contained in paragraphs designated "19" through "21" inclusive, of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

EIGHTH: If injuries and damages were sustained by the plaintiff at the time and place and in the manner alleged in the complaint, such injuries and damages are attributable in whole or in part, to the culpable conduct of the plaintiff.

NINTH: If any damages are recoverable against said defendant, the amount of such damages shall be diminished in the proportion which the culpable conduct attributable to the plaintiff bears to the culpable conduct, if any, of said defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

TENTH: If the answering defendants are found liable, such liability is less than or equal to 50% of the total liability of all persons who may be found liable and therefore these answering defendants' liability shall be limited to its equitable share, pursuant to CPLR Article 16.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

ELEVENTH: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care of rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from a collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules.

TWELFTH: If any damages are recoverable against these said answering defendants, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall receive from such collateral source.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

THIRTEENTH: The condition complained of was open and obvious, and hence liability cannot attach to defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

FOURTEENTH: Upon information and belief, plaintiff has failed to mitigate her damages.

DEMAND FOR TRIAL BY JURY

FIFTEENTH: Defendants, JENNIFER ROBBINS AND JASON ROBBINS, hereby demand a Jury Trial as to each and every issue in this action.


WHEREFORE, defendants JENNIFER ROBBINS AND JASON ROBBINS, demand judgment dismissing the complaint together with the costs and disbursements of this action.

DATED: New York, New York
February 8, 2008

Yours, etc.,

DeCICCO, GIBBONS & McNAMARA, P.C.
Attorneys for Defendants
JENNIFER ROBBINS AND JASON ROBBINS

BY:



DANIEL J. McNAMARA (DJM-6615)
14 East 38th Street, 5th Floor
New York, NY 10016
(212) 447-1222

TO:

ROBINSON & YABLON, P.C.
232 Madison Avenue, Suite 1200
New York, New York 10016
(212) 725-8566

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**REQUEST FOR PRODUCTION OF
DOCUMENTS AND OTHER
ITEMS**

JENNIFER ROBBINS AND JASON ROBBINS,

Defendants.
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COUNSEL:

PLEASE TAKE NOTICE, that pursuant to Rule 34 of the Federal Rules of Civil Procedure, defendants, JENNIFER ROBBINS AND JASON ROBBINS, by their attorneys DeCICCO, GIBBONS & McNAMARA, P.C., hereby demand that plaintiff produce the following documents and things at the offices of DeCICCO, GIBBONS & McNAMARA, P.C., 14 East 38th Street, 5th Floor, New York, New York 10016 on the 10th day of March, 2008 at 10:00 a.m. In lieu of formal production, plaintiff may deliver copies of the documents prior to March 10, 2008 along with a written response to each of the following requests:

1. Authorizations permitting this office to obtain all relevant hospital, medical and all healthcare provider records, together with diagnostic tests.
2. Authorization permitting this office to obtain any Workers' Compensation file.
3. Authorization permitting this office to obtain collateral source records.
4. Photographs of the accident scene and/or injuries.
5. Statements of these defendants.
6. Names and current addresses of any alleged eyewitnesses or notice witnesses.
7. Authorizations permitting this office to obtain records of any physical therapy and/or rehabilitation.
8. Authorizations permitting this office to obtain copies of copies of pleadings in any other action initiated by plaintiff referable to the subject occurrence.
9. Expert testimony disclosure pursuant to F.R.C.P.


10. Reports, evaluations and records of all physicians or other healthcare providers who examined, treated or evaluated plaintiff for a two (2) year period prior to the subject accident and each year since the accident.
11. EMS report, police report or report of any other municipal or governmental agency which responded to and/or investigated the subject accident.
12. Authorizations permitting this office to obtain any disability or social security benefits records.

DATED: New York, New York
February 8, 2008

Yours, etc.,

DeCICCO, GIBBONS & McNAMARA, P.C.
Attorneys for Defendants
JENNIFER ROBBINS AND JASON ROBBINS

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ANSWER TO COMPLAINT AND REQUEST FOR PRODUCTION OF DOCUMENTS
AND OTHER ITEMS.
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DeCICCO, GIBBONS & McNAMARA, P.C.
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Office & P.O. Address
14 East 38th Street
New York, NY 10016
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